

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF VERMONT**

CHAMBER OF COMMERCE OF THE UNITED STATES )  
OF AMERICA and AMERICAN PETROLEUM INSTITUTE, )  
Plaintiffs, )

STATE OF WEST VIRGINIA, STATE OF ALABAMA, STATE )  
OF ALASKA, STATE OF ARKANSAS, STATE OF FLORIDA, )  
STATE OF GEORGIA, STATE OF IDAHO, STATE OF )  
INDIANA, STATE OF IOWA, STATE OF KANSAS, )  
COMMONWEALTH OF KENTUCKY, STATE OF LOUISIANA, )  
STATE OF MISSOURI, STATE OF MONTANA, STATE OF )  
NEBRASKA, STATE OF NORTH DAKOTA, STATE OF OHIO, )  
STATE OF OKLAHOMA, STATE OF SOUTH CAROLINA, )  
STATE OF SOUTH DAKOTA, STATE OF TENNESSEE, STATE )  
OF TEXAS, STATE OF UTAH, and STATE OF WYOMING, )  
Intervenor-Plaintiffs, )

v. )

JULIE MOORE, in her official capacity as the Secretary of the )  
Vermont Agency of Natural Resources and JANE LAZORCHAK, )  
in her official capacity as the Director of the Vermont Agency of )  
Natural Resources Climate Action Office, )  
Defendants, )

*and* )

UNITED STATES OF AMERICA and UNITED STATES )  
ENVIRONMENTAL PROTECTION AGENCY, )  
Plaintiffs, )

v. )

STATE OF VERMONT; PHILIP SCOTT, in his official capacity )  
as Governor of Vermont; JULIE MOORE, in her official capacity )  
as the Secretary of the Vermont Agency of Natural Resources; and )  
JANE LAZORCHAK, in her official capacity as the Director of )  
the Vermont Agency of Natural Resources Climate Action Office, )  
Defendants. )

Case Nos.  
2:24-cv-01513  
2:25-cv-00463  
(related)

**STIPULATED MOTION TO SET BRIEFING SCHEDULE**

The Parties in the above-captioned related cases jointly move for the adoption of the briefing schedule proposed below. In support of this motion, the Parties state as follows:

1. In Case No. 2:24-cv-01513 (*Chamber*), Plaintiffs United States Chamber of Commerce and the American Petroleum Institute filed their complaint on December 30, 2024. They served their complaint on February 26, 2025.
2. In *Chamber*, Intervenor-Plaintiffs West Virginia et al. filed their Complaint on May 7, 2025.
3. In *Chamber*, the State's responsive pleading deadline and the briefing schedule are suspended pending the Court's decision on the Motion to Intervene filed by the Northeast Organic Farming Association of Vermont and Conservation Law Foundation (collectively, "NOFA Defendants") [ECF No. 19]. *See Order, Chamber of Commerce v. Moore*, No. 2:24-cv-1513 (May 23, 2025) [ECF No. 36].
4. In Case No. 2:25-cv-00463 (*United States*), Plaintiffs the United States of America and the United States Environmental Protection Agency filed their complaint on May 1, 2025. They completed service on May 19, 2025.
5. In *United States*, the State's deadline for a responsive pleading is suspended pending further order of the Court, which initially ordered the parties to submit a proposed schedule by June 23, 2025, but subsequently granted a two-day extension to June 25, 2025. *See Order, United States v. State of Vermont*, No. 2:25-cv-00463 (June 9, 2025) [ECF No. 18]; *Order, United States v. State of Vermont*, No. 2:25-cv-00463 (June 20, 2025) [ECF No. 21].
6. Both *Chamber* and *United States* challenge the constitutionality of Vermont's Climate

Superfund Act, 2024 Vt. Acts & Resolves No. 122.

7. Given the substantially overlapping claims and issues in *Chamber* and *United States*, the Parties propose to follow a coordinated briefing schedule to promote efficiency for the Parties and the Court.
8. Accordingly, the Parties have agreed to the following proposed schedule in *Chamber* and *United States*:
  - Defendants shall file their responsive pleading(s) or motion(s) to dismiss on or before August 15, 2025.
  - If the Court grants NOFA Defendants' Motion to Intervene in *Chamber*, their responsive pleading(s) or motion(s) to dismiss in that case shall be filed on or before August 22, 2025.
  - Plaintiffs and Intervenor-Plaintiffs shall oppose any motion to dismiss filed in their cases and file motions for summary judgment on or before September 15, 2025.
  - The State Defendants shall file (i) any reply(ies) in support of their motion(s) to dismiss and (ii) any opposition(s) to summary judgment (and/or cross-motion(s) for summary judgment) on or before November 17, 2025.
  - NOFA Defendants shall file (i) any reply(ies) in support of their motion(s) to dismiss, (ii) any opposition(s) to summary judgment (and/or cross-motion(s) for summary judgment) in *Chamber* on or before November 21, 2025.
  - Plaintiffs and Intervenor-Plaintiffs shall file any reply(ies) in support of their motion(s) for summary judgment and/or any opposition(s) to cross-motions on or before December 15, 2025.
  - Defendants' and NOFA-Defendants' deadline to file reply(ies) in support of any

cross-motion(s) for summary judgment shall be as by rule.

- For any of the filings discussed above, the Parties may elect to consolidate their memoranda supporting and opposing the relevant motions into a single document, in which case the page limit shall be the sum of the applicable page limits for each memorandum set by local rule.
- For any of the filings discussed above, the State Defendants may, at their option, file a single document relating to claims/issues raised in both cases (for example, a State Defendants' motion to dismiss may respond to the complaints in both cases). Any such consolidated documents will be filed in both cases.
- The Parties' obligation to file proposed discovery schedules pursuant to L.R. 26(a)(2) is suspended until fourteen days after the Court's decision(s) on any motions made pursuant to the proposed briefing schedule.

9. The Parties respectfully request an order setting this schedule.

Dated: June 25, 2025

Respectfully submitted,

/s/ Steven P. Lehotsky

Matthew B. Byrne  
GRAVEL & SHEA PC  
76 St. Paul Street, 7th Floor  
Burlington, VT 05402-0369  
Telephone: (802) 658-0220  
Fax: (802) 658-1456  
Email: mbyrne@gravelshea.com

Steven P. Lehotsky\*  
Scott A. Keller\*  
Michael B. Schon\*  
LEHOTSKY KELLER COHN LLP  
200 Massachusetts Avenue, NW,

/s/ Jonathan T. Rose

Jonathan T. Rose  
Solicitor General  
Laura B. Murphy  
Hannah W. Yindra  
Patrick T. Gaudet  
Assistant Attorneys General  
Office of the Attorney General  
109 State Street  
Montpelier, VT 05609-1001  
Telephone: (802) 828-3171  
jonathan.rose@vermont.gov  
laura.murphy@vermont.gov

Suite 700  
Washington, DC 20001  
Telephone: (512) 693-8350  
Fax: (512) 727-4755  
Email: steve@lkcfirm.com  
Email: scott@lkcfirm.com  
Email: mike@lkcfirm.com

Jared B. Magnuson\*  
LEHOTSKY KELLER COHN LLP  
3280 Peachtree Road NE  
Atlanta, GA 30305  
Telephone: (512) 693-8350  
Fax: (512) 727-4755  
Email: jared@lkcfirm.com

Meredith R. Pottorff\*  
LEHOTSKY KELLER COHN LLP  
8513 Caldbeck Drive  
Raleigh, NC 27615  
Telephone: (512) 693-8350  
Fax: (512) 727-4755  
meredith@lkcfirm.com

*Counsel for Plaintiffs the Chamber  
of Commerce of the United States of  
America and American Petroleum  
Institute*

Jennifer B. Dickey\*  
Kevin R. Palmer\*  
U.S. Chamber Litigation Center  
1615 H Street, NW  
Washington, DC 20062  
Telephone: (202) 463-5337

*Counsel for Plaintiff the Chamber of  
Commerce of the United States of  
America*

Ryan Meyers\*  
American Petroleum Institute  
200 Massachusetts Avenue, NW,  
Suite 1200

patrick.gaudet@vermont.gov  
hannah.yindra@vermont.gov

*Attorneys for Defendants*

/s/ Riley W. Walters  
Adam R.F. Gustafson  
Acting Assistant Attorney General  
Robert N. Stander  
Deputy Assistant Attorney General  
Riley W. Walters  
Counsel to the Acting Assistant Attorney General  
U.S. Department of Justice  
Environment and Natural Resources Division  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530  
Telephone: (202) 514-5442  
Riley.Walters@usdoj.gov

*Counsel for Plaintiffs the United States of  
America and the United States Environmental  
Protection Agency*

/s/ Brady C. Toensing  
Brady C. Toensing  
DIGENOVA & TOENSING  
1775 Eye Street NW  
Suite 1150  
Washington, DC 20006  
Telephone: (202) 297-4245  
Brady@digtoe.com

/s/ Michael W. Kirk  
Michael W. Kirk\*  
Adam P. Laxalt\*  
Megan M. Wold\*  
Brian W. Barnes\*  
Cooper & Kirk, PLLC  
1523 New Hampshire Ave., N.W.  
Washington, D.C., 20036  
Telephone: (202) 220-9600  
Facsimile: (202) 220-9601  
mkirk@cooperkirk.com  
alaxalt@cooperkirk.com

Washington, DC 20001  
Telephone: (202) 682-8000

mwold@cooperkirk.com  
bbarnes@cooperkirk.com

*Counsel for Plaintiff American  
Petroleum Institute*

*Counsel for Intervenor-Plaintiffs*

\*admitted pro hac vice